

public prior to 13 April 1993, it is not a proper § 102(b) or § 103 reference against the pending case. Accordingly, this reference is not a proper 102(b) or 103(a) reference. Applicants respectfully request that this rejection be withdrawn.

Request for Interference

Pursuant to 37 C.F.R. § 1.607, and in response to the double patenting rejection, Applicants request that an interference be declared between the pending application and U.S. Patent No. 5,725,854 (also referred to as "the '854 patent").

Applicants propose the following Count:

A method of treating a disease that results from a deficiency of a biological factor in a mammal wherein said method comprises administering Sertoli cells and a therapeutically effective amount of cells that produce said biological factor to a mammal in need of such treatment, where said Sertoli cells are administered in an amount effective to create an immunologically privileged site.

The proposed Count corresponds to, at least, claim 1 and 2 of the '854 patent and claim 1 of pending application. This request is made within the period set by 35 U.S.C. § 135(b).

Applicants also request that an interference be declared between the pending application and U.S. Patent No. 5,759,534 (hereinafter "the '534 patent").

Applicants propose the following Count:

A pharmaceutical composition comprising Sertoli cells and a pharmaceutically acceptable carrier.

The proposed Count corresponds to, at least, claim 6 of the '534 patent and claim 46 of pending application. This request is also made within the period set by 35 U.S.C. § 135(b).

III. CONCLUSION

Applicants submit that the claimed subject matter meets the requirements for patentability under 35 USC and requests the Declaration of an Interference under 37 C.F.R. § 1.607 to settle an issue of inventorship of the claimed subject matter.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 398803000321. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

In the event the Examiner wishes to discuss this application or anything pertaining thereto, she is invited to telephone Applicants' attorney at the telephone number listed below.

Respectfully submitted,

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